

EXHIBIT D

51908 Miyano Minenura Excerpt.txt

1

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MIYANO MACHINERY USA INC.,
Plaintiff,

-vs-

MIYANOHITEC MACHINERY,
INC., THOMAS ("TOM") MIYANO
a/k/a TOSHIHARU MIYANO and
STEVEN MIYANO, a/k/a
SHIGEMORI MIYANO,

Defendant.

CIVIL ACTION
NO. 08 C 526

12 EXCERPT OF THE RULE 30(b)(6)
13 DEPOSITION OF AKIRO MINEMURA
14 MAY 19, 2008 - 10:00 A.M.

16 Excerpt of the Rule 30(b)(6) Deposition
17 of AKIRO MINEMURA, taken pursuant to the Rules of
18 Civil Procedure for the United States District
19 Courts pertaining to the taking of depositions,
20 taken before Jerry Satterlee, a Certified
21 Shorthand Reporter within and for the State of
22 Illinois, at 200 West Adams Street, Suite 2850,
23 Chicago, Illinois.

24

2

1 PRESENT:
2
3 COOK, ALEX, MC FARRON,
4 MANZO, CUMMINGS & MEHLER, LTD., by:
5 MR. EDWARD D. MANZO,
6 MR. LOUIS J. ALEX and

51908 Miyano Minenura Excerpt.txt

7 MR. JASON R. SMALLEY,
8 -and-
9 MASUDA, FUNAI, EIFERT & MITCHELL, LTD., by:
10 MR. STEVEN L. KATZ and
11 MR. GEORGE H. KOBAYASKI,
12 On behalf of the Plaintiff;
13
14 DOWELL BAKER, by:
15 MR. GEOFFREY A. BAKER,
16 -and-
17 FRANCISSEN PATENT LAW, P.C., by:
18 MR. VERNON W. FRANCISSEN,
19 -and-
20 ROBERT M. KARTON, LTD., by:
21 MR. ROBERT M. KARTON,
22 On behalf of the Defendants.
23
24

3

1 ALSO PRESENT:
2
3 MR. TAKAYUSHI HOSHINO, Official Translator,
4 773.588.7461;
5
6 MS. SAYAKA LEWIS, Legal Assistant and
7 Translation Checker,
8 (Masuda, Funai, Eifert & Mitchell, Ltd.).
9
10
11
12
13
14

51908 Miyano Minenura Excerpt.txt

15
16
17
18
19
20
21
22
23
24

□

4

1 (PROCEEDINGS WERE HAD WHICH ARE
2 NOT HEREIN TRANSCBIRED).

3 * * * * *

4 (BEGINNING OF EXCERPT)

5 * * * * *

6 AKIRO MINEMURA,
7 called as a witness herein, having been first
8 duly sworn, was examined and testified through an
9 interpreter as follows:

10 EXAMINATION

11 BY MR. BAKER:

12 * * * * *

13 Q. Do you know who George Kobayashi is?

14 A. Yes, I do.

15 Q. Do you know that George Kobayashi
16 signed a declaration in November 2002 claiming
17 that Miyano Machinery USA was continuing to use
18 the triangle logo?

19 A. I have never seen that document.

20 Q. Do you have any understanding of the
21 basis for Mr. Kobayashi's declarations under
22 penalty of perjury to the trademark office that
23 Miyano Machinery USA was using the triangle logo

51908 Miyano Minenura Excerpt.txt

24 on machine tools?

5

1 THE INTERPRETER: Could you reread the
2 question?

3 MR. MANZO: I will object to the question.

4 (THE QUESTION WAS READ.)

5 MR. MANZO: And I am going to instruct --

6 MS. LEWIS: I don't think it was quite
7 accurate.

8 THE INTERPRETER: Would you reread the
9 question.

10 (THE QUESTION WAS READ.)

11 (THE QUESTION WAS RETRANSLATED.)

12 MR. MANZO: And I am sorry, have you
13 finished translating?

14 THE INTERPRETER: Yes.

15 MR. MANZO: I am going to instruct the
16 witness that he may not in his answer communicate
17 information exchanged between the company and Mr.
18 Kobayashi.

19 THE INTERPRETER: Company and I am sorry?

20 MR. MANZO: And Mr. Kobayashi.

21 BY THE WITNESS:

22 A. He doesn't understand how Mr.
23 Kobayashi came up in this discussion.

24 MR. MANZO: What was the end of his answer?

6

1 THE INTERPRETER: He does not quite
2 understand how Mr. Kobayashi came up in this
3 discussion.

4 BY MR. BAKER:

5 Q. Does he understand the question before
Page 4

51908 Miyano Minenura Excerpt.txt

6 him?

7 A. You mean about George Kobayashi?

8 Q. I mean literally did he understand the
9 exact question and the instruction for that
10 matter?

11 A. By the last question, you mean
12 whether or not Mr. Kobayashi signed the document?

13 Q. Actually, I think the question was do
14 you have an understanding of what the information
15 and basis was for Mr. Kobayashi signing the
16 declaration?

17 MR. MANZO: I would offer an objection.
18 Are you asking --

19 MR. BAKER: Jerry, could you reread the
20 question back.

21 (THE QUESTION WAS READ.)

22 THE INTERPRETER: He would like to say
23 something.

24 MR. BAKER: Of course.

7

1 BY THE WITNESS:

2 A. Because there are other Kobayashis in
3 the company, could you be specific about the
4 George Kobayashi you are talking about?

5 Q. Sure. See the gentleman sitting at
6 the end of the table with the blue suit and orange
7 tie? That is George Kobayashi.

8 A. I was misunderstanding.

9 MR. BAKER: Not at all.

10 Could you read the question one more
11 time. Sorry about that.

12 BY THE WITNESS:

13 A. A long time ago there was a person in

51908 Miyano Minenura Excerpt.txt
14 my company called George Kobayashi.

15 MR. BAKER: Understood.

16 A. That is the total confusion.

17 MR. BAKER: I understand.

18 Now read the question back.

19 (THE QUESTION WAS READ.)

20 MS. LEWIS: "Do you have any
21 understanding."

22 (THE QUESTION WAS RETRANSLATED.)

23 MR. MANZO: And my instruction to the
24 witness again is your response may not reveal

8

1 communications between the company MMU and the
2 law offices of George Kobayashi.

3 BY THE WITNESS:

4 A. Since my recollection is not clear, I
5 cannot answer the question.

6 MR. MANZO: Can you take a break?

7 MR. BAKER: Absolutely.

8 (A RECESS WAS HAD.)

9 BY MR. BAKER:

10 Q. Mr. Minemura, welcome back.

11 I want to hand you what we have
12 marked as Exhibit 94. If you turn to -- This is
13 a document marked MMU 144 through 148, which
14 means that MMU produced this document in this
15 case. I ask you to turn to the page marked MMU
16 147 and I ask you to focus on the middle third of
17 the page under the heading Signature and Other
18 Information.

19 In that is a declaration by George H.
20 Kobayashi dated 11/05/2002, and I want to make
21 sure that my earlier questions are clear to you.
22 What I was asking earlier is do you have any

51908 Miyano Minenura Excerpt.txt

23 understanding of the facts underlying Mr.
24 Kobayashi's information and belief that permitted

9

1 Mr. Kobayashi to sign this declaration under
2 penalty of perjury?

3 THE INTERPRETER: Could you repeat the
4 question?

5 (THE QUESTION WAS READ.)

6 MR. MANZO: I object. You are asking the
7 witness to comment on a legal document that is
8 not written in Japanese.

9 I also instruct him not to
10 communicate the contents of any communication
11 that went between the company and Mr. Kobayashi's
12 law offices in either direction.

13 BY THE WITNESS:

14 A. I would like to decline commenting on
15 this document since as Mr. Manzo has pointed out
16 that I can't completely -- personally understand
17 this document.

18 (END OF EXCERPT)

19 * * * * *

20

21

22

23

24

10

1 STATE OF ILLINOIS)
2) SS:
COUNTY OF COOK)

3 I, Jerry Satterlee, certify that I am a
4 Certified Shorthand Reporter doing business in
Page 7

51908 Miyano Minenura Excerpt.txt

5 the State of Illinois;

6

7 I further certify that I am not a
8 relative, employee, attorney or counsel of any of
9 the parties, nor financially interested directly
10 or indirectly in this matter.

11

12 That I reported in shorthand the
13 proceedings had at the Deposition of Akiro
14 Minemura as excerpted.

15

16 And that the foregoing is a true and
17 correct transcript of my shorthand notes so taken
18 at the said Deposition of Akiro Minemura.

19

20 CERTIFIED TO THIS 19TH DAY OF MAY, 2008.

21

22 Jerry Satterlee, C.S.R.,
23 CSR No. 84-001354

24